IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 16961 of 1999

Between:

Bangaru Kanna Babu, S/o Late Bangaru Pothuraju,

Hindu, 38 years, Agriculturist, R/o Vattigadda

Rajavommangi Mandal, East Godavari District.

... PETITIONER

AND

1. Deputy Collector (Tribal Welfare)

East Godavari District, Rampachodavaram.

2. Special Deputy Tahsildar (Tribal Welfare)

MRO, Rampachodavaram, E.G. District.

3. Epuri Rameshwar Rao, S/o O.Ranga Rao

Hindu, 50 years, Agriculture,

Tantikonda (Post), East Godvari District.

4. Reddy Rajareddy, S/o Sri. Chinnaiah

Hindu, 35 years, Agriculture,

Tantikonda (Post), East Godvari District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction especially a Writ in the nature of Mandamus, by declaring that the action of Respondent No.1 in issuing Notice dated. Nil in LTRP.No.39/99 under Section 3 of the A.P.(Scheduled Areas) Land Transfer Regulation 1 of 1959 as Amended by A.P.(Scheduled Areas) Land Transfer Regulations I of 1970, to the Petitioner as illegal, un-authorized and bad in the eye of law and in consequence thereof to quash the same, in the interest of Justice and to pass any other Order or Orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel For the Petitioner: MR.K.SURYANARAYANA, Advocate

Counsel For the Respondents 1 & 2: GP for SOCIAL WELFARE

Counsel For the Respondents 3 & 4: None appeared

The Court Made the Following Order:

ORDER:

In this writ petition, the petitioner challenges the notice issued by the respondents in Land Transfer Regulation (LTRP) No.39/1999, directing the petitioner to appear before him for conducting enquiry in respect of property in Survey No.40/2B measuring Ac.4.47cents situated in Rajavommangi Mandal, on the petition filed by the respondents 3 and 4.

The main grievance of the petitioner is that earlier on three occasions proceedings were initiated under the Andhra Pradesh (Scheduled Areas) Land Transfer Regulation I of 1959 as amended by Andhra Pradesh (Scheduled Areas) Land Transfer Regulation I of 1970 and ended in favour of the petitioner. Once again issuing notice for conducting an enquiry is nothing but harassment and it is only an abuse of process of law.

The Special Deputy Collector (R-1), Tribal Welfare, filed a counter on behalf of the respondents 1 and 2 stating that respondents 3 and 4 filed an application before the first respondent that the land to an extent Ac.4.47cents in survey No. 40/2B originally belongs to their ancestors. The petitioners and two others have encroached the said land. It was taken on file and accordingly Form "E" notices under Rule 7(2) have been issued. It is also stated that in LTRP No.622/78 the Special Deputy Collector ordered decree of ejectment against the respondents and directed the said property to be restored by the petitioner. Aggrieved by the same respondents therein filed an appeal in C.M.A No.4/80 and the case was remanded to the lower Court for enquiry. After decree of ejectment was passed directing the restoration of property to 1) Sri

Bangaru Pothuraju and 2) Smt. Rithula Nukalamma, similar orders were passed in LTRP No.27/93 and held that the petitioner viz., Sri Epuri Rameswarae Rao, the third respondent herein failed to prove his title or previous possession in Survey No.40/2B measuring Ac.4.41cents and Ac.2.56cents in Survey No.25/2, Ac.3.06cents in Survey No.25/3 and Ac.1.00 in Survey No.25/1 of Thatikonda village and dismissed the petition in LTRP No.27/93, that the petitioner did not raise any contentions before the lower Court about the facts and earlier proceedings of issuance of notice. Had the petitioner brought the facts to the notice of the lower Court, the first respondent would certainly have looked into the same and enquired into the said contentions whether the complainants in LTRP No.39/99 have any right over the suit schedule property.

In view of the said observations, the petitioner is at liberty to file all the documents where the proceedings issued earlier have been concluded, holding that the petitioners have not violated the regulations and no ejectment could be passed for such violations, if any. Till any finding is given about the same pursuant to the notice issued to the petitioner, the respondents shall not evict the petitioner from the suit schedule property. The petitioner is at liberty to raise all the contentions, which are raised in the writ petition.

The writ petition is accordingly disposed of. No costs.

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(A. GOPAL REDDY, J)

June 25, 2004

Dsk/Murthy

1. Deputy Collector (Tribal Welfare)

East Godavari District, Rampachodavaram.

2. Special Deputy Tahsildar (Tribal Welfare)

MRO, Rampachodavaram, East Godavari District.

3. Epuri Rameshwar Rao, Tantikonda (Post), East Godavari District.

4. Reddy Rajareddy, Tantikonda (Post), East Godavari District.

5. Two C.D. Copies